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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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11 THE PEARTREE LTD., a California
12 Limited Partnership,

13 Plaintiff,

14 v.

15 RAFAEL FLORES, et al.,

16 Defendants.

**Case No. SACV 18-00866-JVS
(RAOx)**

**ORDER REMANDING ACTION
AND DENYING REQUEST TO
PROCEED IN FORMA PAUPERIS**

17
18 **I.**

19 **FACTUAL BACKGROUND**

20 Plaintiff The Peartree Limited, a California Limited Partnership (“Plaintiff”) filed an unlawful detainer action in Orange County Superior Court against
21 Defendants Rafael Flores and Does 1 to 5 (“Defendants”), on or about April 3,
22 2018. Notice of Removal (“Removal”) and Attached Complaint (“Compl.”), Dkt.
23 No. 1. Defendants are allegedly tenants of real property located in Santa Ana,
24 California (“the property”). Compl. ¶¶ 3, 6. Plaintiff is the owner of the property.
25 *Id.* at ¶¶ 2, 4. Plaintiff filed the unlawful detainer action demanding that
26 Defendants quit and deliver up possession of the property. *Id.* at ¶ 7. Plaintiff also
27 seeks monetary damages. *Id.* at ¶¶ 11, 17.
28

1 Defendant Rafael Flores filed a Notice of Removal on May 16, 2018,
2 invoking the Court’s federal question jurisdiction. Removal at 2-8. Defendant
3 Flores also filed a Request to Proceed *In Forma Pauperis*. Dkt. No. 3.

4 II.

5 DISCUSSION

6 Federal courts are courts of limited jurisdiction, having subject matter
7 jurisdiction only over matters authorized by the Constitution and statute. *See, e.g.,*
8 *Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 377, 114 S. Ct. 1673, 128 L. Ed.
9 2d 391 (1994). It is this Court’s duty always to examine its own subject matter
10 jurisdiction, *see Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514, 126 S. Ct. 1235, 163 L.
11 Ed. 2d 1097 (2006), and the Court may remand a case summarily if there is an
12 obvious jurisdictional issue. *Cf. Scholastic Entm’t, Inc. v. Fox Entm’t Grp., Inc.*,
13 336 F.3d 982, 985 (9th Cir. 2003) (“While a party is entitled to notice and an
14 opportunity to respond when a court contemplates dismissing a claim on the merits,
15 it is not so when the dismissal is for lack of subject matter jurisdiction.”) (omitting
16 internal citations). A defendant attempting to remove an action from state to
17 federal court bears the burden of proving that jurisdiction exists. *See Scott v.*
18 *Breeland*, 792 F.2d 925, 927 (9th Cir. 1986). Further, a “strong presumption”
19 against removal jurisdiction exists. *See Gaus v. Miles, Inc.*, 980 F.2d 564, 567 (9th
20 Cir. 1992).

21 Defendant Flores asserts that this Court has subject matter jurisdiction
22 pursuant to 28 U.S.C. §§ 1331 and 1441. Removal at 2. Section 1441 provides, in
23 relevant part, that a defendant may remove to federal court a civil action in state
24 court of which the federal court has original jurisdiction. *See* 28 U.S.C. § 1441(a).
25 Section 1331 provides that federal “district courts shall have original jurisdiction of
26 all civil actions arising under the Constitution, laws, or treaties of the United
27 States.” *See id.* § 1331.

1 Here, the Court’s review of the Notice of Removal and attached Complaint
2 makes clear that this Court does not have federal question jurisdiction over the
3 instant matter under 28 U.S.C. § 1331. First, there is no federal question apparent
4 from the face of the Complaint, which appears to allege only a simple unlawful
5 detainer cause of action. *See Wescom Credit Union v. Dudley*, No. CV 10-8203
6 GAF (SSx), 2010 WL 4916578, at *2 (C.D.Cal. Nov. 22, 2010) (“An unlawful
7 detainer action does not arise under federal law.”) (citation omitted); *IndyMac*
8 *Federal Bank, F.S.B. v. Ocampo*, No. EDCV 09-2337-PA (DTBx), 2010 WL
9 234828, at *2 (C.D.Cal. Jan. 13, 2010) (remanding an action to state court for lack
10 of subject matter jurisdiction where plaintiff’s complaint contained only an
11 unlawful detainer claim).

12 Second, there is no merit to Defendant Flores’ contention that federal
13 question jurisdiction exists based on the Protecting Tenants at Foreclosure Act of
14 2009 (“PTFA”). Removal at 2-8. The PTFA does not create a private right of
15 action; rather, it provides a defense to state law unlawful detainer actions. *See*
16 *Logan v. U.S. Bank Nat. Ass’n*, 722 F.3d 1163, 1164 (9th Cir. 2013) (affirming
17 dismissal of the complaint because the PTFA “does not create a private right of
18 action allowing [plaintiff] to enforce its requirements”). It is well settled that a
19 “case may not be removed to federal court on the basis of a federal defense . . . even
20 if the defense is anticipated in the plaintiff’s complaint, and even if both parties
21 concede that the federal defense is the only question truly at issue.” *Caterpillar*
22 *Inc. v. Williams*, 482 U.S. 386, 393, 107 S. Ct. 2425, 2430, 96 L. Ed. 318 (1987).
23 Thus, to the extent Defendant’s defenses to the unlawful detainer action are based
24 on alleged violations of federal law, those defenses do not provide a basis for
25 federal question jurisdiction. *See id.* Because Plaintiff’s complaint does not
26 present a federal question, either on its face or as artfully pled, the court lacks
27 jurisdiction under 28 U.S.C. § 1331.

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III.
CONCLUSION

Accordingly, IT IS ORDERED that this case is REMANDED to the Superior Court of California, County of Orange, forthwith.

IT IS FURTHER ORDERED that Defendant's Request to Proceed *In Forma Pauperis* is DENIED as moot.

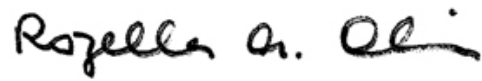
IT IS SO ORDERED.

DATED: 05/21/18



JAMES V. SELNA
UNITED STATES DISTRICT JUDGE

Presented by:



ROZELLA A. OLIVER
UNITED STATES MAGISTRATE JUDGE